



**CITY OF DANBURY**  
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**ZONING COMMISSION**  
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**MINUTES**  
**SEPTEMBER 10, 2019**

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The meeting was called to order by Chairman Robert Melillo at 7:30 PM.

Present were Milan David, Andrea Gartner, Rick P. Jowdy, Angela Hylenski, James Kelly, Robert Melillo and Alternates Michael Masi and Thomas Nejame. Also present was Planning Director Sharon Calitro.

Absent were Luis Bautista, Sally Estefan, and Alternate Sidney Almeida.

Mr. Masi led the Commission in the Pledge of Allegiance.

Mrs. Hylenski made a motion to accept the August 13, 2019 & August 27, 2019 minutes as presented. Mr. Masi seconded the motion and it was passed unanimously.

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CONTINUATION OF PUBLIC HEARING:

Petition of SC Ridge Owner LLC to Amend Section 4.H. of the Zoning Regulations.  
(Amend Planned Neighborhood Development Zone)

Chairman Melillo said this public hearing had been continued from the August 13, 2019 meeting as there was a request made for the Commission to make a site visit. He said he has reached out to Corporation Counsel to confirm the Commission's authority to make a site visit for an amendment petition. Copies of the letter from Corporation Counsel were distributed and discussed at the August 27, 2019 meeting. He reiterated the second paragraph from the letter which said *"The Commission must be mindful, however, that the Commission's decision on this proposed text amendment to the PND Regulation is not to be based solely on the Property, its current improvements, any concept plan for the proposed development contemplated by the petitioner. The Commission must weigh the potential effect of development of the Property to its maximum potential under the PND regulations if amended."*

The following special meeting notice was posted in the Town Clerk's office: "The Zoning Commission of the City of Danbury will hold a special meeting on Wednesday, September 4, 2019 at 4:00 PM at The Ridge at Danbury, 100 Reserve Road, for the purpose of conducting a site inspection. The meeting will convene in the temporary lobby. Parking is available in the visitor parking area."

Chairman Melillo said the letter also instructed them that at tonight's meeting, the members who went on the site visit should state on the record that they had

conducted a site visit and state any observations they had made. He added that any information obtained during the site visit must be disclosed so that the applicant and the public may comment on it. He then called on each of the Commission members for this purpose. Mr. Jowdy said he did not have anything to add at this time. Mr. Kelly said he has no specific observations. Ms. Gartner said she has a bulleted list of questions/comments, starting with if the gardens in the main area would be expanded with the new development. She also asked what percentage of space would be repurposed, what is the breakdown of the pods and other areas. Where the housing would be integrated in relationship to the retail. Are there any plans for clean energy sources and she noted that there are no protections for historic preservation. Mrs. Hylenski and Mr. Masi both stated that they had been unable to make the special meeting. Mrs. Fay said she had nothing specific to add and both Mr. David and Mr. Nejame said they did not see anything problematic. Chairman Melillo said he had no comments or questions. He also said he would forward the secretary e-mails exchanged between himself and a Commission member to make them part of the record.

Attorney Thomas Beecher spoke in favor of this. He said with him this evening are: Felix Charney representing Summit Development, Michael Basile, the construction manager for the project, Tony Rizzo Jr., also part of the development team, and Mark Blair, the project architect. He said approval of this petition does not approve anything for the applicant's property, it just will allow them to come in with a Master Plan and rezoning petition. There are no changes proposed for the residential regulations. The initial PND regulations contemplated development on at least one hundred acres of raw land and that is not the situation for this applicant. He said adaptive reuse of historic preservation structures is already addressed in Section 3.E.5. of the Zoning Regulations. He added that neither the Mall nor Commerce Park could submit an application to rezone to PND because they cannot meet the open space requirement nor do they have one hundred acres. He said in response to Ms. Gartner's comments, there are six pods on the west side which will be developed as residential and nine pods on the east side which will be dedicated to commercial development. Each of the pods has a landscaped area which will be enhanced. He said that after the public hearing, Mr. Charney approached Ken Gucker and offered to meet people on the site. He, Mr. Rizzo, and Mr. Basile followed up by contacting Mr. Gucker by e-mail and certified letter. He submitted copies of the e-mails exchanged for the record (designated Exhibit B).

Felix Charney said he has done approximately one hundred projects in Connecticut and five in Danbury. He said somehow by accident, they became experienced at adaptive reuse of large spaces. He added that he has been around Danbury since 1985 and wants to reposition this site to its former position of prominence. Lastly he said he has found that most questions or concerns can be resolved by compromise or cooperation and he is always willing to work with people.

Tony Rizzo Jr. spoke next saying that his family loves Danbury and they don't bring anything before them, that they don't believe in. He said they plan to be here for a long time.

Attorney Beecher asked if anyone had questions for them and there were none at this time. Chairman Melillo then reminded the Commission members that even though they did a site visit, this amendment is not site specific. They went to see if a potential use could apply to the site, but they are not sure that it will be proposed. He reiterated that this petition is not about rezoning the former Matrix building also known as The Ridge.

Also speaking in favor was Gary Michael, 52 Deer Hill Ave., who restated his comments from the August 13<sup>th</sup> meeting. He said these changes are critical to repurpose the existing building. He added that the Commission members should know that the Rizzo family has been a leader in repurposing old buildings in the City.

P.J. Prunty, President of the Greater Danbury Chamber of Commerce, said this change will support the business environment as well as residential development in the City. He added that the City has done a good job attracting new business to Danbury and this development will continue to enhance the pro-business environment.

Bob Botelho, Victorian Associates, said he felt compelled to speak in favor of this because of his personal commitment to development in the City. He said he truly cares about Danbury and wants the best for it. He said the proposed language changes will allow the 1.2 million sq.ft. building to be appropriately re-used. The building was constructed about forty years ago and it has become a white elephant that needs expensive repairs and updates in order to keep functional. He added that finding one tenant who will take over even a portion of the building has proven difficult to say the least. He asked that they approve the proposed language changes.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and several people came forward.

Paul Rotello, 13 Linden Place, said this is a site specific proposal. It is part of a process to get where they want to go. The first phase is to modify the PND zone, the second phase is the rezoning, then the third phase is site plan approval and lastly, the fourth phase is the actual construction. He asked if the PND zone can just be put anywhere. Chairman Melillo said it requires a minimum of one hundred acres, so it can be put anywhere that meets that requirement. He said he has been here before to talk about the impact on the schools and the tax base. He added that he is always against taking industrial land away from the inventory because it is impossible to create new industrial zoned land. He said it is true that the market is not supporting industrial development in Danbury and giving up industrial land could impact the future. He said he would like to say repurposing the former Union Carbide could be great for Danbury but he is concerned about the issues. In closing he said at this time, it is inappropriate for the City to entertain this kind of project.

Duane Perkins, 22 Main St., said he is against the proposed amendment because it is dangerous to make language changes because of their unintended consequences. He said there is a big incongruence between this applicant and the elected bodies of the City. He said there already are school issues and this will only magnify them.

Bob Taborsak, 110 Hayestown Rd, said he agrees with what has been said regarding the impact this could have. He said he spoke to people today who are worried about increasing school enrollment. He said often with projects like this, by the time they are completed, they change from what was originally proposed. He asked that they consider if the entire picture would be good for the City.

Senator Julie Kushner, 75 Old Ridgebury Rd., said she lives in the neighborhood of The Reserve and has watched it develop. She said the neighbors are concerned about what is happening as the development continues to expand. She said no one has paid attention to the needs of the west side residents. She added that it is difficult to get around on the west side once I-84 gets backed up. She said she would be supportive of this if there were services offered to the surrounding neighborhoods. She questioned the change of language regarding performance bonds versus financial guarantees. Chairman Melillo said this specific change was made to bring the language into conformity with the State statues. She asked some more questions about what this means and Mrs. Calitro explained that the language had to be changed because our Regulations required them to put up 20% when the statutes only require 10%. She asked them to vote against this because the entire City should have the chance to review what is being proposed. Mr. David asked if she was speaking for herself or representing her constituents because they continued the hearing to allow the public to have the chance to speak. She said she did not know about this proposal because she was away and she had expected more people to come out speak against this.

Chairman Melillo asked if there was anyone else to speak in opposition to this petition and there was no one. He then asked Mrs. Calitro if she had any additional staff comments and she said not at this time.

Attorney Beecher then spoke in rebuttal to the opposition's comments. He said some of the comments made it seem like the entire site will be residential and that is not the case because this is a mixed use project. He said they could attempt to rezone the site without the proposed changes to the Regulations. He added that the purpose of this proposal is to increase the amount of space that can be designated for non-residential uses. This building has not been full for over thirty years and negotiations with the City have resulted in fifteen years of payments to the City as well as real estate taxes which will be added to the City coffers. There will not be construction impacts because the building already exists. He said the PND zone was not specifically intended for the west side, it was proposed for anywhere in the City that could meet the minimum requirements. He said this is consistent with the Plan of Conservation & Development, it meets the purpose and intent of the current regulations, the Planning Commission gave it a favorable recommendation and there is no change proposed to the residential component of the PND regulations. He asked that they close the hearing tonight and vote on it.

At this point, Chairman Melillo asked Mr. Masi to take Mr. Bautista's place and Mr. Nejame to take Mrs. Estefan's place for the remainder of the meeting.

Mr. David made a motion to close the public hearing. Mrs. Hylenski seconded the motion and it was passed unanimously.

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Chairman Melillo said there was nothing listed under New Business or Correspondence and under For Reference Only there were three pending public hearings listed. He asked if anyone has anything to discuss under Other Matters and there was nothing. He then said they can either move the petition to Old Business or they can adjourn and take it up at the next meeting.

Mr. David made a motion to move the petition of SC Ridge Owner LLC to Old Business for Discussion and Possible Action. Mr. Jowdy seconded the motion and it was passed unanimously.

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#### OLD BUSINESS FOR DISCUSSION & POSSIBLE ACTION:

##### Petition of SC Ridge Owner LLC to Amend Section 4.H. of the Zoning Regulations. (Amend Planned Neighborhood Development Zone)

Chairman Melillo read from Planning Department staff report the findings that must be made in order for them to approve this petition.

Mr. David made a motion to approve this petition for the following reasons: The proposed amendments are consistent with the Plan of Conservation & Development, they meet the purpose and intent of the PND zone, and they will not negatively impact the health, safety and welfare of the general public. Mr. Jowdy seconded the motion. Chairman Melillo asked if any of the Commission members had comments or questions before they take a vote.

Mr. David said he is aware that this is a huge decision and it would have a big impact on the future. He added that they don't have twenty years to wait for things to turn around and they have to trust the City staff to organize this so it will be beneficial to the City. Mrs. Fay asked if they have to approve it as it reads now or can they change it. Mrs. Calitro said it has to be approved as it is now, if additional language is needed it can be added by another amendment petition. Mrs. Calitro then read the permitted uses from the Zoning Regulations. The first is residential uses as approved in the Master Plan, then there are three types of non-residential uses. The first is neighborhood retail and service uses, the second is community facilities, and the third is uses not serving the immediate needs of the residential development. The last group is what permits industrial type uses. Mrs. Fay asked if the Commission can require a police or fire substation. Mrs. Calitro said if they determine one of them is needed during the review of the Master Plan, they can require it. Chairman Melillo said they would have more control during review of Master Plan and all of these discussions would be appropriate at that time. Mrs. Calitro said when they are reviewing the Master Plan, they can tie the needs to the site and if necessary, they can propose it be added by a text amendment.

Ms. Gartner asked if historic preservation would be considered a substantive change. Mrs. Calitro said when a site specific petition comes in they can look at what the site has to offer and what is proposed for it. Ms. Gartner asked if there will be a new Master Plan for The Reserve or if their Master Plan would be amended to include this

site. Mrs. Calitro explained the PND is a floating zone that can be applied to any parcel that meets the requirements. She continued saying this applicant's property is a separate parcel and will have its own Master Plan, specifying exactly what is proposed for each portion of the site. Chairman Melillo reiterated that this proposal has nothing to do with The Reserve, if approved, it would be its own entity. Ms. Gartner asked if The Reserve could just break out its own PND area. Mrs. Calitro further explained that the Master Plan controls The Reserve and each phase is a separate project. Ms. Gartner asked about the deed restriction which prevents residents of The Reserve from speaking in opposition to any proposals. Chairman Melillo clarified that the deed restriction prevented the residents of a specific phase or development from speaking against anything proposed for their specific phase or development. Ms. Gartner said an adaptive reuse overlay would better serve the developer's purpose. There was no further discussion.

Chairman Melillo took a roll call vote and the motion to approve this petition was passed with eight AYES (from Mr. David, Mrs. Fay, Mr. Jowdy, Mrs. Hylenski, Mr. Kelly, Mr. Masi, Mr. Nejame, and Chairman Melillo) and one NAY (from Ms. Gartner).

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At 9:10 PM, with no further business to discuss, Mrs. Hylenski made a motion to adjourn. Mr. Masi seconded the motion and it was passed unanimously.